



First American Title Insurance Company of New York **CURRENT DEVELOPMENTS**

This is a special bulletin for clients of First American. Prior issues are maintained on the Internet at www.titlelaw-newyork.com. For further information, please contact Michael Berey, Senior Underwriting Counsel, at mberey@firstam.com.

The revision in New York State to Article 9 to the Uniform Commercial Code on Secured Transactions is anticipated to be enacted this month and be effective on July 1, 2001. Similar legislation will be in effect on July 1 in most other states. In general, financing statements will be required to be filed in the state in which the Debtor is located and in the office of the applicable state's Department of State. The exceptions to central filing in New York State will be when the collateral is fixtures, as-extracted collateral (mineral rights), timber to be cut or cooperative interests in which instances filings will continue to be made in the offices of the county clerks.

New forms of financing statements will be required under Revised Article 9. In connection with that change, and in anticipation of enactment of the revision, the New York State Department of State has on its WEB site a "Notice of Anticipated Changes to Uniform Commercial Code Filing Requirements" which indicates that *"the New York State Standard Forms now used for filing under existing UCC Article 9 are not compatible with the new requirements under Revised Article 9 and will not be accepted for filing at any time after Revised Article 9 becomes effective in New York State"*.

The Notice also provides the following information: "For the purpose of determining whether a UCC record should comply with existing Article 9 or Revised Article 9, the date of the filing officer's receipt of the filing will control. A UCC record received by a filing office on or after the effective date of Revised Article 9 must comply with Revised Article 9, *even if the record was mailed or otherwise transmitted by the filer prior to that effective date*". (Emphasis added)

It can be anticipated that county clerks in New York will take the same position on financing statements submitted to them on and after July 1, 2001.

Although the new forms are not yet available, certain model forms can be viewed on the WEB site of the International Association of Corporation Administrators at <http://www.iaca.org/sts>.

The State Department's Notice is at <http://www.dos.state.ny.us/corp/ucc9info.html>.

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